

July, 1993
WEST VIRGINIA INFORMATIONAL LETTER
NO. 88

TO: ALL INSURERS OFFERING ANY AUTOMOBILE BODILY INJURY
LIABILITY OR AUTOMOBILE PROPERTY DAMAGE LIABILITY
COVERAGE (HEREINAFTER INSURERS)

RE: FORMS FOR MANDATORY OFFER OF OPTIONAL LIMITS OF
AUTOMOBILE UNINSURED AND UNDERINSURED COVERAGE

West Virginia House Bill 2580 (HB 2580) became effective on April 10, 1993. This bill requires that all insurers "make available" to a named insured under each policy the optional limits of uninsured motor vehicle (UM) and underinsured motor vehicle (UIM) coverage which are presently required by West Virginia Code § 33-6-31. HB 2580 dictates that the mandatory offer of optional UM and UIM coverages be offered on a form "prepared and made available" by the West Virginia Insurance Commissioner. This letter is to provide the required form and to explain the procedures for "making available" to a named insured optional UM and UIM coverages.

As you are aware existing West Virginia Code § 33-6-31 requires that insurers offer the following optional limits of UM and UIM coverage:

Mandatory Options in West Virginia

UNINSURED (UM)

Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage per Accident
Option #1. . . \$100,000	\$300,000	\$50,000
Option #2. . . Amount up to limits of insureds liability coverage	Amounts up to limits of Insured liability coverage	Amount up to limits of insured liability coverage

UNDERINSURED (UIM)

Bodily Injury Per Person

Amount up to limits of
insureds liability
coverage but not less than
\$20,000

Bodily Injury Per Accident

Amounts up to limits of
insured's liability
coverage but not less
than \$40,000

Property Damage per Accident

Amount up to limits
of insured's liability
coverage but not
less than \$10,000

WHEN INSURER MUST PROVIDE UM AND UIM OPTION FORMS

HB 2580 dictates that the forms prescribed by the Insurance Commissioner must be provided by the insurer to a named insured in three circumstances. These circumstances are:

1. Immediately to a named insured under each policy in existence; and
2. Upon application for insurance either by;
 - (a) Hand Delivery to a prospective named insured, or
 - (b) By mail with the first premium notice to a named insured, and
3. Upon the request of any named insured for different coverage limits.

NOTE: It is recognized by the Insurance Commissioners office that some "start up" time will be necessary for insurers to accomplish printing, computer programming, and internal dissemination of information. Therefore, for a period of 60 days from the date of this letter, the Insurance Commissioners office will take no administrative action against insurers relating to the mandatory offers discussed in this letter. Insurers are put on notice however, that the requirements of HB 2580 have been in effect since April 10, 1993 and the Insurance Commissioner has no ability to waive these requirements. Insurers should therefore act as quickly as possible.

MANDATORY CONTENTS OF FORM

HB 2580 specifies that at a minimum the form must:

1) Inform a named insured of the optional coverages offered; 2) Inform the named insured of the rate calculation for the optional coverages including amount of coverage

and the number of vehicles; and 3) Give the named insured the option to reject the optional coverage.

OFFER VALID FOR THIRTY DAYS/FORM MUST BE COMPLETED BY NAMED INSURED

A named insured upon receiving the prescribed form must complete and return it to the insurer within thirty days or HB 2580 creates a presumption that such named insured has rejected or waived the optional UM and UIM Coverages on behalf of all insureds under the policy. The form must be completed, dated, and signed by a named insured in their own handwriting.

INSTRUCTIONS FOR COMPLETION OF FORM BY INSURER

The form developed by the Insurance Commissioner pursuant to HB 2580 consists of two parts: 1) The "Important Notice" and 2) Alternative Forms A and B. These are attached to this letter.

The Important Notice must be provided in all circumstances listed above. The Important Notice must be combined by the insurer with either Form A or Form B, as appropriate.

Form A is to be used by insurers which offer "split limits" liability coverages.

Form B is to be used by insurers which offer single limit liability coverage.

Therefore, the form provided to a named insured would consist of either the:

Important Notice and Form A (split limits) or the;

Important Notice and Form B (single limit).

NOTE: If the insurer offers both split limits and single limit coverages, both Form A and Form B must be provided to the insured and the insured allowed to reject the coverage not wanted.

INSURER MUST COMPLETE UPPER PORTION OF BOTH PAGES OF FORM A OR FORM B FOR EACH POLICY

Forms A and B each address uninsured (UM) coverage on the first page and underinsured (UIM) coverage on the second page of the respective form. The insurer must complete the upper portion of Form A or Form B for each named insured notified in

order to make an effective offer of optional UM and UIM coverages. As to each named insured notified, the insurer must provide: 1) The number of vehicles covered by the policy; 2) Whether there is a multi-car discount used in the premium calculation; 3) The agent's name (If the insurer is a direct marketer and no agent is used, the insurer should type in "none"); 4) The policy number; 5) the named insured's existing coverage level(s) (if there is no existing coverage the insurer should type in "none"); and 6) the policy period (e.g. 3, 6, or 12 months); 7) the premium amount for that policy period which would apply to each optional UIM and UM coverage offered by the insurer for which the named insured is eligible.

Insurers are not required to (but may) quote premiums as to UM and UIM coverage levels higher than those required by W.Va. Code § 33-6-31, see chart above. If on Forms A and B there are blank spaces for premium which correspond to coverages not required to be offered by W.Va. Code § 33-6-31 and the insurer does not wish to offer such coverages, the insurer should type out "not available" in such blank spaces. The blank spaces near the bottom of the per person, per accident, and property damage columns are provided to allow the insurer some flexibility in completing the form. In these spaces the insurer must list other levels of coverage (and premium) which are required by W.Va. Code § 33-6-31 (see chart above) but are not specifically listed on Form A or B. Also, the insurer may list in these spaces (if space permits) other levels of coverage (and premium) which are not required by W.Va. Code § 33-6-31 but which the insurer voluntarily wants to offer.

FREQUENTLY ASKED QUESTIONS

1. Q. Form A provides only space for a premium that is an aggregate of the bodily injury per person, bodily injury per accident, and property damage coverages. Can the insurer break this down and give separate premium quotations as to each of these individual coverages?
 - A. No. The form is designed with simplicity in mind and it was felt that breaking the coverages down any further would make the form too crowded and complicated.

2. Q. Is it mandatory that the notices provided be directed at a specific named insured?
- A. Yes.
3. Q. If there is more than one named insured on the policy, do all named insureds have to sign?
- A. No. H.B. 2580 requires only that a named insured as to each policy be notified and sign the offer.
4. Q. Must insurers offer the limits which the Insurance Commissioner specifically lists in Forms A and B?
- A. Yes.
5. Q. May the insurer offer limits other than those specifically listed by the Insurance Commissioner on Forms A and B?
- A. Yes. In certain circumstances the insurer is required by law to offer a higher level of coverage equal to the insureds level of liability coverage and must list those coverages. The insurer does not have to, but if it desires to do so, may list additional optional coverages in the blank spaces in the optional limits section of Forms A and B other than those required by law. The insurer may offer more than two of these optional coverages (only two blank areas are provided) so long as the insurer uses legal size paper and therefore, does not have to compress the size of the form.
6. Q. May a company selling both single and split limits coverage put the form for single limits on one side of the notice and the form for the split limits on the other side?
- A. Yes.
7. Q. May the insurer alter the instructions to require the insured to send the offer form to the insureds agent instead of the company?
- A. No.

8. Q. May an insurer which offers both split and single limit coverages combine the single and split limit coverage options into one form as opposed to providing both Forms A and B?
- A. No. Such companies must provide both Form A and Form B and allow the insured to reject the coverage that they do not desire.
9. Q. Is it mandatory that insurers use an individual page format in providing the forms or may the insurer use a fold-out format or other similar arrangements?
- A. No. The individual page format is not mandatory and insurers may use other formats so long as the information on the forms is not altered and the size of the forms is not reduced.
10. Q. Must insurers show actual calculated premium rates or is it permissible to use "base rates"?
- A. The insurer must supply actual premium rates as to the automobile which is insured.
11. Q. May the insurer rearrange the form generally or arrange it so that it will fit on a single sheet or the front and back of a single sheet?
- A. The insurer must use an exact duplicate of the form as to both order and size of print.

Subsequent to this letter, the attached forms will be adopted into administrative regulations. The Insurance Commissioner will give notice of any changes to the forms provided by this letter. If you have any questions, you may direct them to Jerry Gladwell, Director, Rates and Forms Division, telephone number (304) 558-2094. Thank you for your attention to this matter.

Hanley C. Clark
Insurance Commissioner

IMPORTANT NOTICE

OFFER VOID AFTER THIRTY (30) DAYS

TO: PROPOSED POLICYHOLDER (APPLICANT);

IF YOU DO NOT RETURN THIS FORM TO YOUR INSURER WITHIN THIRTY (30) DAYS IT MEANS YOU HAVE DECIDED NOT TO BUY OPTIONAL UNDERINSURED COVERAGES OR OPTIONAL LIMITS OF UNINSURED MOTORIST COVERAGE ABOVE THAT REQUIRED BY LAW.

OR

PRESENT POLICYHOLDERS;

IF YOU DO NOT RETURN THIS FORM TO YOUR INSURER WITHIN THIRTY (30) DAYS IT MEANS YOUR COVERAGE WILL STAY THE SAME AS IT IS NOW. THIS IS AN OPPORTUNITY TO CHANGE THE COVERAGE YOU PRESENTLY HAVE.

UNinsured Motor Vehicle Coverage

The State of West Virginia requires that you purchase **UNinsured** motor vehicle coverage with limits not less of \$20,000 per person, \$40,000 per accident for uninsured bodily injury losses, and \$10,000 for uninsured property losses. The law also requires that you be given the opportunity to purchase higher limits. (See the charts on pages 2 and 3 for coverages available to you.)

UNinsured Motor Vehicle Coverage will protect you and passengers in your car if you are injured in an accident that was caused by an uninsured driver who was at-fault, or an unidentified driver who was at-fault.

UNDERinsured Motor Vehicle Coverage

The State of West Virginia **does not require** you to purchase **UNDERinsured** motor vehicle coverage. However, the law does state that you must be given the opportunity to purchase this coverage at limits as high as your liability coverage.

If you and passengers in your car are involved in an accident in which the other driver is legally at fault, the at-fault drivers insurance policy has the obligation to pay for your damages. It is not uncommon that the at-fault driver will not have enough liability insurance to pay for all the damages you have suffered. In order for you to protect yourself and others in your car, **UNDERinsured motor vehicle coverage** is available to you. This type of coverage will pay for the remainder of your damages up to your policy limits.

EXAMPLE:

You have purchased **UNDERinsured** motor vehicle coverage with limits of \$50,000 per person with a maximum of \$100,000 for any accident. You are in an accident where the other driver is at fault. The at-fault drivers liability policy limits are \$20,000 per person. You suffered damages of \$30,000. You receive \$20,000 from the at-fault drivers insurance. Since you still have outstanding losses of \$10,000, you can receive \$10,000 from your **UNDERinsured** motor vehicle coverage.

If you did not have **UNDERinsured motor vehicle coverage**, you may have found yourself in a situation where you did not have enough coverage to meet all of the losses you sustained in the accident.

UNINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

UNINSURED MOTORISTS COVERAGE (OPTIONAL)_____
AGENT

Number of vehicles subject to premiums below ____.

POLICY/BINDER NUMBER_____
VEHICLE DESCRIPTION

Rates ☐ **include** ☐ **do not include** multi-car discount.

<u>Bodily Injury Per Person</u>	<u>Bodily Injury Per Accident</u>	<u>Property Damage</u>	<u>Premium</u>
Your present coverage is:			
\$ _____	\$ _____	\$ _____	\$ _____

OPTIONAL LIMITS

\$ <u>20,000</u>	\$ <u>40,000</u>	\$ <u>10,000</u>	[A] \$ _____	[A] _____
\$ <u>25,000</u>	\$ <u>50,000</u>	\$ <u>10,000</u>	[B] \$ _____	[B] _____
\$ <u>50,000</u>	\$ <u>100,000</u>	\$ <u>10,000</u>	[C] \$ _____	[C] _____
\$ <u>100,000</u>	\$ <u>300,000</u>	\$ <u>10,000</u>	[D] \$ _____	[D] _____
\$ <u>100,000</u>	\$ <u>300,000</u>	\$ <u>50,000</u>	[E] \$ _____	[E] _____
\$ _____	\$ _____	\$ _____	[F] \$ _____	[F] _____
\$ _____	\$ _____	\$ _____	[G] \$ _____	[G] _____
<u>REJECT</u>	<u>REJECT</u>	<u>REJECT</u>	<u>REJECT</u>	[] <u>REJECT</u>

**I SELECT
(Check One)**

A named insured or applicant must select or reject coverage offered above, on this part of the form, in his or her own handwriting.

I have read the IMPORTANT NOTICE, attached, on UNDERinsured motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select the optional limits of UNDERinsured motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT_____
DATE

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested

UNINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION.

UNINSURED MOTORISTS COVERAGE (MANDATORY)

AGENT

Number of vehicles subject to premiums below _____.

POLICY/BINDER NUMBER

VEHICLE DESCRIPTION

Rates ☐ **include** ☐ **do not include** multi-car discount.

Bodily Injury
Per Person

Bodily Injury
Per Accident

Property
Damage

Premium

Your present coverage is:

\$ _____ \$ _____ \$ _____ \$ _____ \$ _____

MANDATORY LIMITS

\$ 20,000 \$ 40,000 \$ 10,000 [A] \$ _____

OPTIONAL LIMITS

\$ 25,000 \$ 50,000 \$ 10,000 [B] \$ _____

\$ 50,000 \$ 100,000 \$ 10,000 [C] \$ _____

\$ 100,000 \$ 300,000 \$ 10,000 [D] \$ _____

\$ 100,000 \$ 300,000 \$ 50,000 [E] \$ _____

\$ _____ \$ _____ \$ _____ [F] \$ _____

\$ _____ \$ _____ \$ _____ [G] \$ _____

**I SELECT
(Check One)**

[A] _____

[B] _____

[C] _____

[D] _____

[E] _____

[F] _____

[G] _____

A named insured or applicant must select or reject coverage offered above, on this part of the form, in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select the optional limits of **UNinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested

UNINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

UNINSURED MOTORISTS COVERAGE (MANDATORY)

Number of vehicles subject to premiums below _____.

Rates [] **include** [] **do not include** multi-car discount.

AGENT

POLICY/BINDER NUMBER

VEHICLE DESCRIPTION

Single Limits	Premium	I SELECT (Check One)
Your present coverage is: \$ _____	\$ _____	
MANDATORY LIMITS		
\$ 50,000	[A] \$ _____	[A] _____
OPTIONAL LIMITS		
\$ 100,000	[B] \$ _____	[B] _____
\$ 200,000	[C] \$ _____	[C] _____
\$ 300,000	[D] \$ _____	[D] _____
\$ 350,000	[E] \$ _____	[E] _____
\$ _____	[F] \$ _____	[F] _____
\$ _____	[G] \$ _____	[G] _____

A named insured or applicant must select or reject coverage offered above, on this part of the form, in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select the optional limits of **UNinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE

This selection of coverage is binding on all persons covered under the policy. These limits apply until a change in limits is requested.

UNDERINSURED MOTORISTS COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

UNDERSURED MOTORISTS COVERAGE (MANDATORY)

Number of vehicles subject to premiums below _____.

Rates ☐ **include** ☐ **do not include** multi-car discount.

AGENT

POLICY/BINDER NUMBER

VEHICLE DESCRIPTION

Single Limits

Premium

Your present coverage is:

\$ _____

\$ _____

OPTIONAL LIMITS

\$ 50,000

[A] \$ _____

[A] _____

\$ 100,000

[B] \$ _____

[B] _____

\$ 200,000

[C] \$ _____

[C] _____

\$ 300,000

[D] \$ _____

[D] _____

\$ 350,000

[E] \$ _____

[E] _____

\$ _____

[G] \$ _____

[F] _____

[G] _____

REJECT

REJECT

[] I REJECT

A named insured or applicant must select or reject coverage offered above, on this part of the form, in his or her own handwriting.

I have read the **IMPORTANT NOTICE**, attached, on **UNDERinsured** motor vehicle coverage and understand how this coverage works.

I have been given the opportunity to select the optional limits of **UNDERinsured** motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.

SIGNATURE OF A NAMED INSURED OR APPLICANT

DATE

This selection of coverage is binding on all persons covered under the policy. These limits apply until a change in limits is requested.